

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jun 05, 2025

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,
Plaintiff,

v.

CARLOS ARMANDO MERLOS-ORTIZ,
Defendant.

No. 4:22-CR-6018-RLP

ORDER CONTINUING TRIAL AND
CASE MANAGEMENT ORDER

This matter was scheduled for a change of plea and sentencing hearing on June 4, 2025. Due to the unexpected unavailability of defense counsel, the hearing was canceled. *See* ECF No. 115. The Court finds the trial currently scheduled for June 9, 2025 should be rescheduled. The Court, having considered the schedule, finds that the ends of justice are served by a continuance in this matter and further that the ends of justice served by a continuance outweigh the best interests of the public and Defendant in a speedy trial based on the factors set forth in 18 U.S.C. § 3161(h)(7)(B).

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1 Accordingly, **IT IS HEREBY ORDERED.**

2 1. The current trial date of June 9, 2025 is **STRICKEN** and **RESET** for **July**
3 **14, 2025**, at **9:00 a.m.**, commencing with a final pretrial conference at **8:30 a.m.** Trial
4 shall take place in Richland, Washington.

5 2. Pursuant to 18 U.S.C. § 3161(h)(1)(G) and (h)(7)(A), the time between June
6 9, 2025 and July 14, 2025 is **DECLARED EXCLUDABLE** for purposes of computing
7 time under the Speedy Trial Act.

8 3. The change of plea and sentencing hearing is **RESET** to **June 25, 2025** at
9 **3:00 p.m.** in Richland, Washington.

10 4. A pretrial conference is also **set** for **June 25, 2025, at 3:00 p.m.** in Richland,
11 Washington, in the event the matter does not proceed with a change of plea. Counsel shall
12 advise the Court regarding any dispositive change in the status of this case **at least five (5)**
13 **working days prior to the pretrial conference.**

14 5. Defense counsel shall notify the defendant of all hearings and assure the
15 defendant's attendance for court proceedings.

16 6. All pretrial motions, including motions *in limine* and *Daubert* motions, shall
17 be filed and served on or before **June 11, 2025** and noted for hearing at the pretrial
18 conference. Any response to a pretrial motion shall be filed and served in accordance with
19 Local Civil Rule 7.

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1 7. All pretrial conferences are scheduled to last not more than **thirty (30)**
2 **minutes**, with each side allotted **fifteen (15) minutes** to present their own motions and
3 respond to motions filed by opposing counsel. If any party anticipates requiring longer
4 than fifteen minutes, that party must notify the Courtroom Deputy at least **five (5)**
5 **working days** prior to the hearing. **Any party who fails to provide this notice will be**
6 **limited to fifteen (15) minutes.**

7 8. If a party files any motion that requires an evidentiary hearing and/or requires
8 the Court to act as a finder of fact, that party must notify the Courtroom Deputy at **least**
9 **fourteen (14) days** prior to the hearing. The parties will coordinate with the Courtroom
10 Deputy to schedule an evidentiary hearing that provides enough time for the parties to
11 present evidence, including witness testimony and exhibits. If the parties anticipate
12 offering witness testimony, the parties shall file with the Court a witness list, together with
13 a brief summary of the proposed testimony, at least **five (5) working days** before the
14 hearing. If the parties anticipate offering or referring to exhibits during the hearing, the
15 parties shall file with the Court a binder of the proposed exhibits, pre-marked for
16 identification, at least **five (5) working days** prior to the hearing. The Government's
17 exhibits shall be numbered 1 to 199; Defendant's exhibits shall be numbered 200 to 299.
18 The parties are encouraged to file their exhibits jointly, so that the Court may quickly refer
19 to all exhibits in one place.

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1 9. Any supplemental jury questionnaire must be approved by the Court not less
2 than three weeks before the trial date. Accordingly, should the parties propose an agreed
3 supplemental questionnaire, it is due no later than one month before the trial date. Should
4 one or more of the parties desire a supplemental questionnaire, but no agreement can be
5 reached, that party shall file a motion for supplemental questionnaire, set for hearing
6 without oral argument no later than one month before trial date. Counsel should note that a
7 motion must be filed sufficiently in advance of the hearing date to allow for briefing and
8 consideration by the Court.

9 10. Further motions to continue this matter will not be granted absent exceptional
10 circumstances that could not have been anticipated prior to issuance of this order. Should
11 counsel seek an additional continuance, a motion shall be filed at the earliest practicable
12 opportunity, but no later than **five (5) working days prior to said proceeding**. Movant
13 **shall** provide (1) a detailed explanation of the new circumstances that justify the requested
14 continuance; (2) a realistic assessment of the amount of time requested; (3) if applicable,
15 Defendant's signed Speedy Trial waiver; (4) the position of all co-defendants and
16 opposing counsel; and (5) the proposed new date. The Court will accept Defendant's
17 digital signature on a speedy trial waiver if accompanied by counsel's verification of the
18 authenticity of the signature. Additionally, any motions filed after the pretrial motion
19 deadline will be considered at the pretrial conference.

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1 11. A defendant on pretrial release should expect to be placed into custody
2 immediately after conviction or change of plea if the provisions of 18 U.S.C. § 3143(a)(2)
3 apply.

4 12. Trial briefs, proposed voir dire, jury instructions, verdict forms, exhibit lists,
5 expert witness lists, and summaries of expert testimony shall be filed and served by all
6 parties on or before **five (5) working days prior to trial**. This does not modify the parties'
7 discovery obligations under Rule 16 of FRCrP. Absent an agreement between the parties
8 or an Order from the Court, the parties' discovery deadlines shall be governed by Local
9 Criminal Rule 16.

10 13. Under federal law, including FRCrP Rule 5(f), *Brady v. Maryland*, 373 U.S.
11 83, 83 S. Ct. 1194 (1963), and all applicable decisions from the Supreme Court and the
12 Ninth Circuit interpreting *Brady*, the Government has a continuing obligation to produce
13 all information or evidence known to the Government relating to guilt or punishment that
14 might reasonably be considered favorable to the defendant's case, even if the evidence is
15 not admissible so long as it is reasonably likely to lead to admissible evidence. *See United*
16 *States v. Price*, 566 F.3d 900, 913 n.14 (9th Cir. 2009). Accordingly, the Court **orders** the
17 Government to produce to the defendant in a timely manner all such information or
18 evidence.

19 Information or evidence may be favorable to a defendant's case if it either may help
20 bolster the defendant's case or impeach a prosecutor's witness or other Government

1 evidence. If doubt exists, it should be resolved in favor of the defendant with full
2 disclosure being made.

3 If the Government believes that a required disclosure would compromise witness
4 safety, victim rights, national security, a sensitive law-enforcement technique, or any other
5 substantial government interest, the Government may apply to the Court for a modification
6 of the requirements of this Disclosure Order, which may include *in camera* review and/or
7 withholding or subjecting to a protective order all or part of the information.

8 This Order is entered under Rule 5(f) and does not relieve any party in this matter of
9 any other discovery obligation. The consequences for violating either this Order or the
10 Government's obligations under *Brady* include, but are not limited to, the following:
11 contempt, sanction, referral to a disciplinary authority, adverse jury instruction, exclusion
12 of evidence, and dismissal of charges. Nothing in this Order enlarges or diminishes the
13 Government's obligation to disclose information and evidence to a defendant under *Brady*,
14 as interpreted and applied under Supreme Court and Ninth Circuit precedent. As the
15 Supreme Court noted, "the government violates the Constitution's Due Process Clause 'if
16 it withholds evidence that is favorable to the defense and material to the defendant's guilt
17 or punishment.'" *Turner v. United States*, 582 U.S. 313, 315-16, 137 S. Ct. 1885 (2017)
18 (quoting *Smith v. Cain*, 565 U.S. 73, 75, 132 S.Ct. 627 (2012)).

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DATED June 5, 2025.


REBECCA L. PENNELL
United States District Judge